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**Notice of Allowability**

Application No.

10/751,747

Examiner

Andy Huynh

Applicant(s)

MOTOYOSHI, MAKOTO

Art Unit

2818

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the Election dated 06/03/05.
2. ☒ The allowed claim(s) is/are 1-5.
3. ☒ The drawings filed on 05 January 2004 are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☒ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☒ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS ( as "replacement sheets" ) must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948 ) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |  |   |
|--|---|
| <ol style="list-style-type: none"> <li>1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)</li> <li>2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)</li> <li>3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),<br/>Paper No./Mail Date _____</li> <li>4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br/>of Biological Material</li> </ol> | <ol style="list-style-type: none"> <li>5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)</li> <li>6. <input type="checkbox"/> Interview Summary (PTO-413),<br/>Paper No./Mail Date _____</li> <li>7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment</li> <li>8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance</li> <li>9. <input type="checkbox"/> Other _____</li> </ol> |
|--|---|

*Andy Huynh*  
 Andy Huynh  
 Patent Examiner  
 AU 2818

## **DETAILED ACTION**

### ***Election/Restrictions***

In the Response to Restriction Requirement dated June 03, 2005, Applicant has elected the invention of Group I (claims 1-5), drawn to a device. Because Applicant did not distinctly and specifically point out the supposed error in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)). Accordingly, claims 6-10 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 35 § 1.142(b) and MPEP § 821.03. Applicant has the right to file a divisional application covering the subject matter of the non-elected claims 6-10.

### ***Examiner's Amendment***

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

The application has been amended as follows:

The title of the invention has been changed as follows:

**–NONVOLATILE MAGNETIC MEMORY DEVICE--.**

In claim 1, line 26, "... the top surface of the tunnel magnetoresistance device ..." should read "... a top surface of the tunnel magnetoresistance device ...--", and in claim 5, line 7, "... the side surface of the tunnel magnetoresistance device ..." should read "... a side surface of the tunnel magnetoresistance device ...--.

This application is in condition for allowance except for the presence of claims 6-10 non-elected without traverse. Accordingly, claims 6-10 have been canceled.

*Allowable Subject Matter*

Claims 1-5 are allowed.

The following is an examiner's statement of reason for allowance:

Claims 1-5 are allowable over the prior art of record because the prior art of record does not teach or render obvious a nonvolatile magnetic memory device comprises a tunnel magnetoresistance device formed on a first wiring through an insulating film in which a lower surface of the tunnel magnetoresistance device is electrically connected to a first connecting hole through a second connecting hole which is formed in a second opening portion made through at least the insulating film and the first wiring and is electrically insulated from the first wiring, and in combination with all other features as recited in independent claim 1.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance".

*Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andy Huynh whose telephone number is (571) 272-1781. The examiner can normally be reached on Monday-Friday 8:30am-5:00pm.

Art Unit: 2818

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Nelms can be reached on (571) 272-1787. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for regular communications and (703) 872-9306 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ah

06/10/05



Andy Huynh

Patent Examiner